

State of Florida



Public Service Commission

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COMMISSION CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: April 20, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (M. Watts, Howell, Ollila)
Office of the General Counsel (Tan, Scott)

Handwritten notes: JMT, ET, S.O., RW, KS, PW

RE: Docket No. 050957-TX – Compliance investigation of DSL Internet Corp d/b/a DSLi for apparent violation of Section 364.183(1), F.S., Access to Company Records.

AGENDA: 05/02/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050957S.RCM.DOC

Case Background

On December 27, 2005, staff opened Docket No. 050957-TX against DSL Internet Corporation d/b/a DSLi (DSLi) for its apparent violation of Section 364.183(1), F.S., Access to Company Records. On June 3 and July 19, 2005, staff sent certified letters via the United States Postal Service (U.S.P.S.) to DSLi requesting data contained in its company records for inclusion in the Florida Public Service Commission's (Commission's) annual report to the Legislature on the status of local competition in Florida (local competition report). DSLi signed the return receipt card for each certified letter, but staff did not receive the company's response.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Docket No. 050957-TX

Date: April 20, 2006

Docket No. 050957-TX was scheduled to be heard at the February 28, 2006, Agenda Conference. However, on February 24, 2006, DSLi submitted a request to defer the docket from the scheduled Agenda Conference pending settlement negotiations with staff. DSLi's request was approved. This recommendation addresses DSLi's proposed settlement.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285 and 364.386, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission accept DSL Internet Corporation d/b/a DSLi's settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

Recommendation: Yes, the Commission should accept the company's settlement proposal. (M. Watts/Howell/Ollila/Scott/Tan)

Staff Analysis: On March 30, 2006, DSLi submitted an offer to settle the issue in this docket. In its letter, DSLi stated that it found its response in its database, but could find no record of its having been submitted to the Commission. DSLi proposed the following:

- A monetary offer of \$3,500.00; and
- To establish internal procedures to automate its filing and include copies of hardcopy data in its electronic files to avoid a situation of this nature arising in the future.

Staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable. Additionally, the amount of the settlement offer is consistent with the Commission's action in accepting similar terms of settlement for the same violation in Docket No. 000217-TX, In Re: Initiation of show cause proceedings against ATI Telecom, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records. Therefore, staff recommends that the Commission accept DSL Internet Corporation d/b/a DSLi's settlement offer to voluntarily contribute \$3,500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes.

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Issue 2: Should this docket be closed?

Recommendation: If no person, whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and DSLi complies with its settlement offer, this docket should be closed administratively. If DLSi fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 7941 should be canceled and this docket should be closed administratively. **(Scott/Tan)**

Staff Analysis: Staff recommends that the Commission take actions as set forth in the above staff recommendation.